

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Tina Bradway, Individually and as Administratrix of
the Estate of Tony Bradway,

Plaintiff,

- against -

THE TOWN OF SOUTHAMPTON, LINDA A.
KABOT, OFFICER JAMES KIERNAN, OFFICER
ERIC SICKLES, OFFICER VINCENT CAGNO,
OFFICER STEVE FRANKENBACH, OFFICER
DAVID PETERS, OFFICER WILLIAM KIERNAN
and OFFICER MONTALBANO,

DECLARATION
Case No. CV -09-3177

(Bianco, J)
(Lindsay, MJ)

Defendants.

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JOSHUA S. SHTEIERMAN, an attorney duly authorized to practice law before the courts of the State of New York, and specifically before the United States District Court of the Eastern District of New York, affirms the following under penalty of perjury:

1. I am an associate of DEVITT SPELLMAN BARRETT, LLP and I represent the defendants in the above-captioned matter. I submit this declaration in support of defendant's motion for summary judgment requesting dismissal of the plaintiff's constitutional claims brought pursuant to 42 U.S.C. §1983 claims and all state law claims.

2. Plaintiff, Tina Bradway, mother of the decedent Tony Bradway, commenced this suit against the Town of Southampton and the individually named officers alleging that the Town and its agents violated her son's constitutional rights and negligently caused his death when he was arrested for the possession of a controlled substance.

3. Plaintiff commenced this action by serving a Notice of Claim upon the municipal defendant on August 14, 2008.

4. Plaintiff filed this Complaint with the Court on July 23, 2009 and filed an Amended Complaint on October 30, 2009.

5. Defendant's Rule 56.1 Statement is annexed hereto.

6. The accompanying Memorandum of Law addresses defendant's legal arguments in detail.

7. Annexed hereto as Exhibits are the following documents:

- a. Amended Complaint, dated October 30, 2009.
- b. Answer to Plaintiff's Amended Complaint, dated November 3, 2009.
- c. Town of Southampton Police Department Supplementary Reports of Police Officers Eric Sickles, Steven Frankenbach and Vincent Cagno, dated July 13, 2008.
- d. Deposition Statement of Kenneth Bo, dated June 9, 2008.
- e. Deposition Transcript of Police Officer Steven Frankenbach, dated May 19, 2010.
- f. Deposition Transcript of Police Officer Eric Sickles, dated May 24, 2010.
- g. Deposition Transcript of Police Officer Vincent Cagno, dated May 24, 2010.
- h. Officer Eric Sickles TASER Certification.
- i. Deposition Transcript of Police Officer William Kiernan, dated May 17, 2010.
- j. Deposition Transcript of Sgt. James Kiernan, dated May 17, 2010.
- k. Town of Southampton Police Arrest Report for Tony Bradway.
- l. Peconic Bay Medical Center, Emergency Nursing Record, dated June 9, 2008.
- m. Peconic Bay Medical Center, Progress Notes, dated June 9, 2008.
- n. Plaintiff's Stipulation of Voluntary Dismissal, dated May 20, 2011.
- o. Notice of Claim, dated August 14, 2008.
- p. Deposition Transcript of Police Officer David Peters, dated May 27, 2010.
- q. Suffolk County Police Department Statement by Danielle Giannini, dated June 12, 2008.
- r. Suffolk County, Office of Medical Examiner Autopsy Report, dated June 10, 2008.
- s. Deposition Transcript of Expert Witness Charles Wetli, dated April 13, 2011.

WHEREFORE, it is respectfully requested that this court grant defendants' motion for summary judgment and dismiss plaintiff's Complaint in its entirety.

Dated: Smithtown, New York
June 6, 2011

/S/
JOSHUA S. SHTEIERMAN (JS/1954)